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DADE COUNTY COMMISSION

11

REGULAR MEETING

12

AUGUST 7, 2008

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1 MR. BRANDON: I want to call the
2 meeting to order. Order, please. Quiet. I want to
3 call the meeting to order. This is the regularly
4 scheduled meeting of the Dade County Commission.
5 Before we get started, I want to do what we always
6 do and call on the Lord and have the Pledge of
7 Allegiance. To do that, I would like to ask
8 Mr. John Deffenbaugh if he would lead us, please.

9 (Thereupon, the invocation and
10 Pledge of Allegiance were given.)

11 MR. BRANDON: This is the regularly
12 scheduled meeting of the Dade County Commission
13 which takes place at the same time on the first
14 Thursday of every month. Proper notice of this
15 meeting was given to the legal organ of Dade County
16 and was posted in the hallway of the Administration
17 Building. I'll call the roll and have it recorded
18 by the clerk. Mr. Lowery?

19 MR. LOWERY: Here.

20 MR. BRANDON: Ms. Moore?

21 MS. MOORE: Here.

22 MR. BRANDON: Mr. Pittman?

23 MR. PITTMAN: Here.

24 MR. BRANDON: Mr. Young was called out
25 of town on business, so he will not be here. The

1 chair is present. We have a forum and, therefore, a
2 legal meeting.

3 The reading of the minutes of the July
4 2008 regular meeting will not be required since all
5 Commissioners have been furnished copies in advance.
6 The minutes are public record and available for
7 review in the county executive's office. The
8 minutes are included in the consent agenda with a
9 list of other items. I'll ask the clerk to read
10 what those items on the consent agenda are, please.

11 MR. TOWNSEND: We have approval of
12 previous meeting minutes, approval of appointments
13 of new employees and/or transfers, approval of
14 invoices as presented. We have the approval of ACCG
15 inmate medical savings program for the jail, budget
16 amendments as presented by resolution. Approval of
17 a warranty deed and intergovernmental agreement
18 between Dade County and Lookout Mountain Community
19 Services for Volunteers of America agreement.

20 We have the approval of the Georgia DOT
21 Local Assistance Road Program priority list,
22 approval of transfer station tipping fee schedule
23 set at \$34 per ton for commercial haulers effective
24 October 1st, 2008. Approval of ordinance number
25 080708A, parking lot at the county parks and

1 approval of ordinance number 080708B, emergency
2 management and the NIMS ordinance.

3 MR. BRANDON: Thank you. Is there a
4 motion that we approve the consent agenda?

5 MR. LOWERY: I make a motion we approve
6 the consent agenda.

7 MR. BRANDON: I have a motion. Is
8 there a second?

9 MS. MOORE: I'll second the motion.

10 MR. BRANDON: I have a motion and a
11 second. I'll call the roll. Ms. Moore?

12 MS. MOORE: Yes.

13 MR. BRANDON: Mr. Pittman?

14 MR. PITTMAN: Yes.

15 MR. BRANDON: Mr. Lowery?

16 MR. LOWERY: Yes.

17 MR. BRANDON: And the chair votes yes
18 as well. We're up to administrative and we'll ask
19 if we have any of the commissioners that have
20 district reports?

21 MR. PITTMAN: Actually, I've got one
22 thing.

23 MR. BRANDON: No, you're too slow.

24 MR. PITTMAN: Jeff Mullis, I've been in
25 contact with him and he's supposed to have a \$5,000

1 grant check for the Davis Community Center or Davis
2 Community walking track. We were supposed to do it
3 last Friday, but his wife had day surgery, so he
4 couldn't make it. So hopefully as soon as he gets
5 his schedule cleared, we'll get the \$5,000 and with
6 the money the Community Center has already raised,
7 we'll be able to build a walking track in the Davis
8 community behind the school, so that's good news.

9 MR. BRANDON: That's good. We'll have
10 to thank Senator Mullis for doing that for us.
11 Anybody else?

12 MS. MOORE: Well, I guess I will just
13 say that plans are being, you know, pushed forward
14 now on Burkhalter Gap Road and I'm proud of that.

15 MR. BRANDON: Okay. The executive
16 update, one of the things that we're going to be
17 running into here in the coming months deals with
18 finances. I don't know if you keep track of what's
19 going on in Atlanta, but if you look at Atlanta, you
20 will see what we're going to be faced with except on
21 a much larger scale. The General Assembly adopted a
22 budget. It was passed by the governor. It included
23 a lot of new spending that put back some money for a
24 lot of projects that had been previously cut out.
25 There was a report, I think, that came out -- I'm

1 trying to think. I guess it was Monday of this
2 week. I believe, Peter, was it Monday that you and
3 I were talking? Monday or Tuesday that came out
4 that said that the governor, after looking at the
5 latest financials, had decided that they were going
6 to be just a little bit short, like between one and
7 two billion dollars and so they have gone back now
8 and rescinded that extra spending just to save that
9 money and they may have to call a special session of
10 the legislature to come back in to figure out how
11 they're going to make up the difference of between
12 one and two billion dollars, which is a lot of
13 money.

14 Now, I say that only to give you a
15 heads up in that if you are expecting the State to
16 step in and help the Counties, not just us, but all
17 Counties, a whole lot this next year, you might be
18 disappointed because not only are they over by one
19 to two billion dollars or short on revenue one to
20 two billion dollars, but the Department of
21 Transportation, all they've done says that they be
22 overcommitted on road projects by over a trillion
23 dollars because over the years, they wouldn't tell
24 anybody no, we can't do that. So if you added up
25 the value of all the projects over all the years

1 that they had them planned for, it turned out that
2 they were overcommitted -- they had about a trillion
3 dollars worth of projects and not nearly that much
4 money. So it's going to be very tight.

5 Now, I'm sure if Senator Mullis says
6 we're going to get \$5,000, we'll get it. But all
7 this to say that on projects like State funded and
8 State provided road paving on county contracts and
9 on LARP, we're probably going to see a lot less than
10 we've seen in years past.

11 Rolling downhill from there down to the
12 County, our local options sales tax collections
13 year-to-date are down by about 20 percent if my
14 calculations are correct. Is that correct, Don?

15 MR. TOWNSEND: That's correct.

16 MR. BRANDON: About 20 percent
17 year-to-date and the way we're going, they probably
18 aren't going to go back up anytime real soon. So
19 that's going to leave us a shortage that we're going
20 to have to make up in our budget and since we have
21 already set the millage rate and can't change that,
22 it's going to have to come out of current -- out of
23 basically the current budget because we're going to
24 have a flat budget year over year revenue wise. It
25 may even go down some. I guess if that lasts, it

1 will have to go down because we won't be getting as
2 much money as we forecasted on local option sales
3 tax.

4 So we're asking the departments to all
5 look at their budgets and make some cuts and for
6 some people, it will be some fairly large
7 sacrifices. So we'll be going through this over the
8 next couple of months. Our budget is not really due
9 back to the State until January 1st and it may
10 take us through December to get the thing done, but
11 it's going to be a tough one because our fuel costs
12 are going up, as they are for everybody else.

13 They've come down a little bit here. I noticed the
14 sign over here that gas has gone down a little bit,
15 but still they're going to be higher next year than
16 they were this year or at least we have the forecast
17 that they will be at least as high so we don't get
18 caught short again.

19 So just to give you a heads up
20 financially for the County, we're going to have to
21 be making some cuts and so you may see some -- I
22 don't know if it's going to affect services one way
23 or the other, but we're going to be cutting back in
24 a lot of places that we've never had to do before.
25 So just to give you little heads up on that. I

1 would ask if any of the other Commissioners have a
2 comment on the financial status or on what I just
3 said?

4 MR. LOWERY: I'm glad we did what we
5 did though. I think people are expecting us to cut
6 instead of keep raising taxes to --

7 MR. BRANDON: Now, one of the things --
8 and I believe -- I don't want to speak for the
9 school system, but they have a challenge as well
10 because a lot of that \$468 million that was cut back
11 out of this year's budget was money that had been
12 put back into education to fund a lot of their
13 budgets and they won't be getting that now and
14 they've already set their millage rate, too. So
15 that's one of the downsides of setting your millage
16 rate before you do the budget is that sometimes
17 happens, but you never know when things like this
18 are going to come up, so there's no way to know
19 whether to predict that.

20 MR. LOWERY: Didn't the governor say
21 something, too, about the homestead exemptions?

22 MR. BRANDON: There are a lot of
23 components to this, but basically the State is
24 doing -- the State is mandated to have a balanced
25 budget, which is a good thing. I wish the federal

1 government was mandated to have a balanced budget,
2 but they're not. But the State is mandated to have
3 a balanced budget, so they either have to find more
4 revenue, which is unlikely, or make cuts to services
5 and budgets, which is exactly what they're going to
6 have to do. Now, whether they'll call a special
7 session of the legislature to go back in and deal
8 with that, I don't know. But he has already cut out
9 that. I guess it's a retroactive veto of that
10 spending bill that he previously approved.

11 Moving on into appearances, we left
12 some -- a very important appearance off of the
13 agenda here and we had Ms. Tinker as first with the
14 Chamber of Commerce, but I'm going to use the
15 executive privilege here and call on the new mayor
16 to come up and address us first if he chooses to do
17 that. We would welcome new mayor Barton Harris of
18 the City of Trenton.

19 MR. HARRIS: And Don asked me and I did
20 said ladies should go first, so Debbie, wherever
21 you're at -- the only thing I've got, I just wanted
22 to let you know I was here and was available. This
23 is our profit and loss statement. I'm just going to
24 run through three figures and it's mostly for a
25 laugh. Our year-to-date income \$1,381,883. Our

1 expenditures, \$1,381,940. We've got \$57 in the
2 bank. Anyway, that's kind of the way it started.

3 MR. BRANDON: No. Really, how much do
4 you have?

5 MR. HARRIS: I don't really have a clue
6 how much we have. I know the City is in good
7 financial shape, but that does show you we're not in
8 it for profit if \$57 is all we've had for the year.

9 Anyway, I want to be a mayor for the
10 City and anything I can help anybody in the County,
11 anybody I can work with. I'm looking forward to
12 working with the Commission, the ones that's seated
13 now and the changes that will be made come January.
14 I'm glad to be here and I probably will not be here
15 every month. It should be listed as City official.
16 It may be myself. It may be another commissioner.
17 It may be that we have no one here. Of course, I
18 think Peter Cervelli will be sitting up here and he
19 might be able to do the same thing I'm doing tonight
20 from his seat or stand up and talk, but we'll be in
21 touch and I'll be glad to work with everybody.
22 Thank y'all.

23 MR. BRANDON: I was to give the new
24 mayor some praise here. He's already had a
25 complaint from a resident from the City of Trenton

1 about some bushes that were blocking the driveway
2 and after my momma got onto him about it, they were
3 promptly trimmed back. I want to thank you for that
4 and I'm sure momma thanks you.

5 Moving on into Ms. Debbie Tinker from
6 the -- executive director from the Chamber of
7 Commerce, I'll ask her to come up.

8 MS. TINKER: Thank you for letting me
9 speak tonight. There are copies of my report that
10 I've given to the Commission. There are copies of
11 this report that I gave to the Commission on the
12 back table back there if anyone would like one. I
13 don't read all of it, but I would like to say the
14 Chamber has been working over the past year with
15 local leaders and businesses to receive the State of
16 Georgia Entrepreneur Friendly designation for the
17 County.

18 Through the process, we've been
19 increasing community awareness, strategies, needs
20 and resources for small business development. The
21 EF Committee has enhanced relationships with State
22 and Federal resource providers including UGA Small
23 Business Development Center, Georgia Tech Enterprise
24 Innovative Institute, Georgia Department of Economic
25 Development, Georgia Department of Labor and

1 Northwest Georgia Joint Development Authority.

2 The efforts of the Chamber and the
3 committee were reviewed by the State on July 24th,
4 followed by business visits to local entrepreneurs
5 and ending with a reception at the Chamber to award
6 Dade County the official designation of Entrepreneur
7 friendly.

8 Before I go further, I will say one of
9 our local businesses, companies has contacted us and
10 said because of this designation, they have already
11 had three new business contracts and an investor
12 contact them to possibly increase the size of their
13 business.

14 We would like to thank the different
15 local organizations that helped us in these
16 endeavors, Northwest Georgia Joint Development,
17 Trenton Downtown Development, Dade Economic
18 Improvement, Dade School Board, Dade First, Dade
19 County and City of Trenton governments and the many
20 individuals and local businesses. That is the
21 highlight of our quarter.

22 Now, David Young and I did go to the
23 Georgia Academy of Economic Development and we
24 graduated and in the Academy, it's a four-month
25 program where you're divided into teams and

1 different teams go to a county, not their own, and
2 attached to y'all's report is Team Dade's
3 suggestions. David suggested since y'all are
4 thinking about getting a new courthouse, ways to use
5 this one and this was Team Dade's suggestions.

6 Anybody that's a golfer, we're having a
7 golf tournament this weekend and our next big event
8 that we'll be having in Dade County will be
9 Hillbilly Woodstick and the Dukes of Hazard
10 Cruise-in will be here for three days this year in
11 October, so hopefully that will help some of our
12 tourism. Thank you.

13 MR. BRANDON: Moving on into fiscal,
14 matters, I'll ask the county clerk to read the
15 financial report, please.

16 MR. TOWNSEND: In the drug education
17 fund we have \$82,128; federal asset fund, \$2,357;
18 special sheriff fund, \$42,812; jail fund, \$21,904;
19 juvenile services fund, \$13,367; victim assistance
20 fund, \$2,569; payroll account, 150,843. General
21 fund, \$209,197. And the S.P.L.O.S.T, we have a
22 total of P&I of \$2,015,647 for a total capital
23 \$837,966. We currently have not used or had to use
24 the line of credit established that you see. The
25 general fund, we had a balance of \$209,197, but to

1 be honest with you, most of that has been used since
2 we've had a large pile of checks here that went out
3 earlier in July, but we haven't had to use it yet,
4 so hopefully we won't.

5 Under page four there are a few things
6 to note. In Sheriff's Department, you see the
7 revenues are at 239 percent. That's a very large
8 increase of what was actually anticipated coming in.
9 And at the bottom, it does show that he's over.
10 Actually, this is a prime example of where he
11 received a grant in the amount of \$75,465 and that
12 grant proceeds, because it was not budgeted because
13 you always count on grants to come in, we had no
14 idea we were going to get this grant earlier in the
15 year. This grant came in from the GBI, I
16 understand, and it is a 100 percent grant. The
17 County was not out a penny and they're using those
18 moneys to update information in their patrol cars
19 and you probably could do a more elaborate job of
20 explaining what all it does.

21 SHERIFF CANNON: What it is is a
22 Homeland Security Grant and the grant is an itemized
23 grant that allows us to purchase ten laptops. They
24 purchase ten laptops for us and what this will do is
25 increase our ability to serve the public more and

1 give the officers the ability to run tags inside the
2 vehicle. At a later date, allow dispatch to shoot
3 cad through us. That's our next step and all this
4 is 100 percent. It's not tax dollars. It's 100
5 percent Homeland Security Grant. Dade County was
6 fortunate to get the grant.

7 MR. TOWNSEND: Commissioner Moore
8 recognized earlier that when we pass the budget
9 amendment, that that was the larger part of the
10 revenue that came in through that budget amendment,
11 so I just wanted to point that out. That was money
12 that we did not anticipate getting.

13 Also, under the next page you'll see
14 under the variance report the local option sales tax
15 came in at 229,000. That is about a \$100,000
16 increase over what it's been running. It's been
17 running anywhere from 117 up to, you know, about
18 \$140,000, so 230,000 was a nice change. That
19 represents collections for the month of May. I wish
20 I knew what happened in May to cause that to go up
21 \$100,000.

22 MR. BRANDON: Beginning of vacation
23 driving.

24 MR. TOWNSEND: I guess. So anyway,
25 we're still down for the year about \$200,000 and,

1 you know, we started out the year with a reserve
2 plan and part of that reserve is taking care of this
3 because if we had not had that reserve in place, we
4 would be actually down \$200,000 and that would be
5 excruciatingly painful.

6 But anyway, that was a little
7 foresight. Also, personal property, you know, is
8 actually up 127,000. Property collections are now
9 about 97, 98 percent for the whole county and they
10 will continue to collect some past due property
11 bills from years prior.

12 Over on the S.P.L.O.S.T towards the
13 back, again, I'd like to point out that we've been
14 running for the year about -- January was 210,000 in
15 revenue, 199 in February. March was about 166,000,
16 April, 185, May about 200,000. June was 193,000,
17 end of July, 286,000. So, again, that represents
18 collections from the month of May. So, again,
19 that's up about \$100,000. Only time will tell to
20 see if that's a trend or some kind of seasonality
21 inflation, but hopefully it's a turn.

22 MR. BRANDON: Thank you, Don.

23 SHERIFF CANNON: Can I correct one
24 thing on that, Ben?

25 MR. BRANDON: Yes.

1 SHERIFF CANNON: That was to equip 15
2 cars instead of ten cars.

3 MR. BRANDON: Good. Thank you.

4 On to legal matters, I'll ask the
5 County attorney if we have any new updates on the
6 never-ending lawsuit against Dade County.

7 MR. ROGERS: No new developments over
8 the next month.

9 MR. BRANDON: Any idea when that will
10 be making its way into the courthouse?

11 MR. ROGERS: Whenever the judge sets
12 it, but I've not heard.

13 MR. BRANDON: Nobody pushing on it, I
14 guess. Anything else other than that?

15 MR. ROGERS: No.

16 MR. BRANDON: Okay, good. Thank you.

17 Any unfinished business? There's none
18 that I know of. I'll ask the other Commissioners if
19 they know of any. Hearing none, we'll move onto new
20 business. I asked that one item be added to new
21 business. We discussed this and I think everybody
22 was here in the work session. I'll go over it
23 again. At the -- in the primary, we had the same --
24 essentially the same ballot question that was worded
25 differently. It was probably worded better on the

1 Democratic ballot than it was on the Republican. It
2 said shall the district commissioners be elected at
3 large instead of from their districts. Still run
4 for the district, but it would be like it is now for
5 the school board. The responses was overwhelming.
6 I want to thank both the parties for putting that
7 item on there and the smallest percentage yes vote
8 was 67 percent, if I'm not mistaken.

9 So I had asked at the work session if
10 there was a motion to ask the legislature, ask
11 Senator Mullis and Representative Scott to make this
12 change, this change to -- using Home Rule to make
13 this change that the people have overwhelmingly
14 done. So at this time, there was no consensus to
15 put it -- at the work session to put it on the
16 consent agenda. So at this time I will ask if
17 there's a motion that we ask them to do that?

18 Hearing none, we will not do that, but
19 I will point out that some of the arguments that we
20 had that were made around the table was that, well,
21 not everybody voted. But, you know, enough people
22 voted to pass the S.P.L.O.S.T and enough people
23 voted to select the candidates who will be running
24 the County and various offices, so I think that's
25 sort of a specious argument that just because

1 everybody didn't turn out, that you shouldn't count
2 that.

3 So, but again, I think it's -- I think
4 it's something that everybody said they wanted and I
5 think we would be remiss if we didn't at least make
6 an attempt to make that change. The chair
7 recognizes Mr. Pittman.

8 MR. EDDIE PITTMAN: I appreciate you
9 bringing it up, but wouldn't it be more appropriate
10 for the parties to come and ask for action on the
11 questions that we put on the ballot?

12 MR. BRANDON: I'm sorry?

13 MR. EDDIE PITTMAN: Wouldn't it be more
14 appropriate for the parties to come and ask the
15 Commission for action that we put on the ballot? I
16 mean, I appreciate you looking at it and looking at
17 the results, but we haven't come and asked for any
18 action on any of --

19 MR. BRANDON: Well, it hadn't occurred
20 to me, but do you think that you will be coming to
21 ask something that passed by 76 percent of all the
22 Democrats voting?

23 MR. EDDIE PITTMAN: We may or we may
24 not. There was a very low turn out. You can look
25 at percentages, but you also have to look at

1 numbers.

2 MR. BRANDON: Should we then invalidate
3 the vote we took on S.P.L.O.S.T because it was such
4 a low turnout?

5 MR. EDDIE PITTMAN: Was that a primary
6 question?

7 MR. BRANDON: I know it was on the
8 ballot that day when everybody else voted.

9 MR. EDDIE PITTMAN: I think those were
10 questions that we asked as parties.

11 MR. BRANDON: I know. I'm being
12 facetious. Let the record show that there was no
13 support for doing that.

14 We're up to citizen participation. I
15 will ask if anyone wants to address their fellow
16 Commissioners. Yes, sir.

17 MR. MARTIN: I'm J.D. Martin from
18 Lookout Mountain, Craig Road. I've been there 51
19 years and we didn't have no road hardly at all when
20 I bought there. I bought 12 acres there in early
21 '58 and we maintained the road for about six years
22 until Dan Hall come in and Dan, I can't remember who
23 he sent out there for us to sign where he could work
24 the road. I signed it. I had 1,300 feet on the
25 roadside and he asked me, he said, will you give any

1 land if we need it on your side? I said, yeah, you
2 can take what you need, and he started -- he come in
3 there then and graded the ditches. I signed the
4 petition. Now, what Dan's done with the petition --
5 I understand now that there's no record showing that
6 Craig Road was ever signed to the County, but the
7 County has maintained it for 40 years and why
8 they're saying now they ain't going to maintain it
9 no more, taking it off. I don't understand why it's
10 been done for 40 years and now saying they ain't
11 going to do it. And the right-of-way -- I don't
12 know what the Georgia law calls for, how much
13 right-of-way at that time, but the way they've got
14 it now, there ain't no way that it can ever be
15 signed over to the County.

16 People came in there and bought small
17 lots, 100 by 100 or 100 by 50 feet up and down the
18 road and built houses and the houses are so close to
19 the road now, they can't afford to give that much
20 footage to the County. If they did, it would take
21 their doorsteps off. So we're not asking for -- to
22 come in there and make us a four-lane drive. All
23 I'm asking for is the County to keep maintaining the
24 way it's been for the last 40 years. I would like
25 for somebody to answer my question why it's been

1 maintained that long and now quit.

2 MR. BRANDON: Well, the answer is
3 that -- you and I -- Mr. Martin and I have had this
4 discussion three or four times and the answer is at
5 some point when you discover that something is
6 wrong, it has to be made right. We don't have any
7 right-of-way deeds on that road and as I told you,
8 if you'll get the right-of-way deeds signed, then we
9 will address it again with the Commission and there
10 won't be any problems doing that, but then again,
11 you have to -- we have to apply the current standard
12 for acceptance of a road into the County.

13 And this came about when Ms. Phillips,
14 who is in the audience, had a concern and she fought
15 this issue for over a year and she has gone by the
16 book and done everything that she's supposed to do.
17 She has a big envelope full of paperwork there and
18 she's done her due diligence and the fact is that we
19 couldn't establish that it is now or ever had been
20 officially a County road. And, again, the procedure
21 is well spelled out of what it takes to do that and
22 so that's what --

23 MR. MARTIN: It can't be done now the
24 way it is now. I couldn't blame people for not
25 signing the right-of-way and their houses are

1 already in 15 foot of the road. If they give 30
2 feet, they would have to move their house. So all
3 we're asking for -- we're not asking for -- as far
4 as I know, everybody is satisfied with the way the
5 road is now. Two cars can pass most anywhere on the
6 road and it's in fairly good shape and I'm sure the
7 road is going to last longer than I will, but I hate
8 to see it go back down like it was in there. I was
9 pulled out of there by a wrecker two or three
10 different times where I live one tenth down Craig
11 Road.

12 MR. PITTMAN: Robin, do you want to
13 legally address this. If we maintained it for 40
14 years, that doesn't necessarily make it a County
15 Road?

16 MR. ROGERS: Yeah. I have not looked
17 at this road since probably last summer I think is
18 when this came up. At that time we did spend some
19 time looking at it and what I recall from that time
20 was that several of the deeds along the road did
21 speak of a public road, but not necessarily the
22 County road, but of a public road and there was some
23 evidence that in form of testimony from several
24 people along the road that it had been maintained
25 for a number of years and as I recall the issue at

1 that time, what had happened or what was really
2 driving the issue was there was a cul-de-sac at the
3 end of Craig Road and I think Ms. Phillips, who
4 lives at the end of the cul-de-sac or the end of the
5 road, had taken the position that essentially half
6 of the cul-de-sac was on her property and had put a
7 fence kind of splitting the cul-de-sac in half and
8 at that time the issue became, you know, does the
9 County want to take action or not take action with
10 respect to that. And the options that the County
11 considered was either to take the road because we
12 had been maintaining it for 40 years or abandoning
13 the road because there was not clear recorded
14 documents stating that the County had adopted the
15 road.

16 I think essentially the County had
17 taken the position, well, since it was only at the
18 very end of the road, the cul-de-sac that was being
19 affected, that they -- my recollection was that the
20 Commission took no action at that time and that's
21 the last I've heard about that until tonight, so I'm
22 not --

23 MR. MARTIN: I don't have a beef
24 against Ms. Phillips about what she done down there.
25 I done the same thing. They had a circle drive and

1 part of it was on her property and her and Buford
2 was in a dispute over the property is the way I
3 understand it, that's brought all this up. It
4 wasn't a road deal. It was between them two with
5 the property.

6 MR. BRANDON: Let me give the Reader's
7 Digest version of this. The reason we're having
8 this discussion now is because Ms. Phillips never
9 could get anybody to make a decision on this last
10 year. She fought this for months and months and
11 months and nobody would ever tell her yea or nah.

12 MS. PHILLIPS: I have the e-mails.

13 MR. BRANDON: I'm sorry. Do what now?

14 MS. PHILLIPS: I even had the e-mails
15 sent to all of the people that were not returned,
16 including him and Sarah.

17 MR. BRANDON: She could never get an
18 answer on this, so the default position is if we
19 can't prove it's a County road, then it's not a
20 County road because, again, at some point you have
21 to start doing the right thing when you find out
22 something is wrong. Now, I've told Mr. Martin that,
23 you know, the way you fix this is to get everybody
24 down the road to sign the right-of-way deeds and
25 follow the rules that apply to the County accepting

1 a road and you make it a County road and if it
2 doesn't want to go past Ms. Phillips' house, then
3 she won't sign the right-of-way deed and it won't go
4 that far.

5 MS. PHILLIPS: I'm not the only one
6 that won't sign it.

7 MR. BRANDON: I understand. But at
8 this time, I would ask Ms. Phillips if she would
9 like to come up and say something, then I would like
10 to give her the opportunity to do that if Mr. Martin
11 is finished.

12 MS. MOORE: Can I say something also as
13 the Commissioner?

14 MR. BRANDON: Sure.

15 MS. MOORE: I'm well aware of that and
16 one of the first calls that I got when I was elected
17 Commissioner was Ms. Phillips to come out and do
18 something about that road the County went out
19 immediately. I sent someone out there to check that
20 road out and it was from your call and you didn't
21 like the way they did it, the road. But, anyway,
22 I'm not going to argue that point. But I'm going to
23 tell you that you were one of the first ones that
24 said, when are you going to come and do something
25 about our road and then they did the -- the way they

1 did it, not paving. It was done in a different way.
2 But anyway, then I went back and when all this came
3 up and researched all of that property back over 50
4 years ago where it referred to a County road, so I'm
5 very familiar with all of that and very familiar
6 that the County has maintained that road and also
7 that by prescriptive measures, the County should
8 still maintain that road or abandon that road
9 because we have maintained it. It's the same thing
10 that we had out on Plum Nelly Road, but we never did
11 abandon it.

12 MS. PHILLIPS: You don't have any
13 record of maintaining that road. If --

14 MS. MOORE: Well, we do.

15 MR. MARTIN: It was paved twice.

16 MS. MOORE: Yeah. But anyway, there
17 are records that we have maintained that road.

18 MS. PHILLIPS: Do you have those
19 records, Billy?

20 MR. MASSENGALE: I have all the records
21 from 2006. I don't know about prior.

22 MS. PHILLIPS: Because there are no
23 records before 2006.

24 MS. MOORE: We have testimony from the
25 residents that it has been.

1 MS. PHILLIPS: Which residents? Most
2 of them are my in-laws.

3 MS. MOORE: Well, I have signatures
4 here of people.

5 MS. PHILLIPS: How many?

6 MS. MOORE: Well, there are several,
7 but the question here is the road has been
8 maintained and by prescriptive measures, it should
9 still be maintained in my --

10 MS. PHILLIPS: Well, perhaps you would
11 like a copy of the resolution that he has in his
12 pocket that he --

13 MS. MOORE: Okay. I don't want to
14 argue. The only thing I want to say is that I know
15 personally the County has maintained that road.

16 MS. PHILLIPS: Hearsay.

17 MS. MOORE: No. I know personally.

18 MS. PHILLIPS: Do you live on that
19 road?

20 MS. MOORE: I'm your Commissioner and I
21 know what our road crew foreman has done.

22 MS. PHILLIPS: No, you're not my
23 Commissioner.

24 MS. MOORE: Well, I will be until the
25 end of December.

1 MR. BRANDON: Order.

2 MS. MOORE: I'm not going to argue with
3 you, but I did do research on that road and went way
4 back to Mr. Craig.

5 MS. PHILLIPS: Here's mine. Where's
6 yours?

7 MS. MOORE: But according to the county
8 attorney and what he just said, that if the County
9 has maintained that road, we need to continue to
10 maintain that road or abandon that road and the
11 County has taken no measure to abandon that road.

12 MR. BRANDON: Robin, is that what you
13 just said? Is that legally a County road?

14 MR. ROGERS: I don't know if I just
15 said that, but as I understand the law and from my
16 looking at it a year ago, if the County does
17 maintain a road for some period of time and my
18 recollection is seven to ten. I haven't looked at
19 it in about a year, that the County can gain
20 prescriptive rights to the road and back at the time
21 that I looked at this back last summer, I had
22 thought that there was enough of a question there
23 about whether the County had gained prescriptive
24 rights to the road. Anyway, that the County could
25 not stop maintaining the road without taking some

1 action to abandon the road.

2 MS. MOORE: And we didn't do that.

3 MR. ROGERS: Otherwise, what we could
4 do, if the County decided unilaterally without going
5 through the steps required in the statute to abandon
6 a road, then you could do that, but that would not
7 legally abandon the road, if you understand what I
8 mean. You have to follow the procedures that are in
9 the statute in order to do that. And my
10 recollection is from that time is that the County,
11 in fact, did not act either way. It was kind of
12 left with a fence at the end of the cul-de-sac and
13 that was where the position was left, I thought.

14 MR. BRANDON: Let me ask this question.
15 That addresses Mr. Martin's question. What do you
16 say to Ms. Phillips?

17 MR. LOWERY: It's still a County road.

18 MR. BRANDON: What do you say to
19 Ms. Phillips?

20 MR. ROGERS: Well, as I understand --
21 what I recall the position being was there was
22 enough of a question there about whether or not the
23 County had obtained rights on the road that in order
24 to abandon the road, we need to go through the
25 procedures by statute and, frankly, what I recall,

1 there was not a lot of interest. My recollection
2 was there was not a lot of interest on the part of
3 the County to file a declaratory action in court and
4 so forth to pursue that one way or the other to the
5 end and so, frankly, since she was at the end of the
6 road where the cul-de-sac was, it was, you know --

7 MR. BRANDON: Let me ask you, what is
8 the County's position on where her fence is?

9 MS. MOORE: Well, the fence is no
10 problem.

11 MR. ROGERS: Well, as I recall, you
12 know, the County can take action or choose not to.

13 MR. BRANDON: Would it be your
14 recommendation that we take action to abandon the
15 road beginning at the corner of her property down
16 there on that road?

17 MR. ROGERS: That's a decision for you
18 all to make.

19 MR. MARTIN: The road ain't on her
20 property now. It goes beside her property.

21 MS. PHILLIPS: I have property on the
22 other side of that fence. I didn't even put my
23 fence all the way over on my property. I was trying
24 to be a good neighbor, but I don't know why.

25 MR. BRANDON: So if we were to pass a

1 resolution abandoning a road at the corner of her
2 property, then that would address her concern, I'm
3 assuming, and then at that point, then we would have
4 to go back and decide whether or not we had the
5 legal liability of maintaining the entire road and
6 I'm told that you can't get the right-of-way deeds
7 from everybody that lives down that road. So is
8 there a sense of the Commission that that's
9 something that we should do is abandon Craig Road at
10 the beginning of Ms. Phillips' property?

11 MS. PHILLIPS: But my in-laws are not
12 signing right-of-ways and I understand with this
13 Resolution, what, 195, you have to have signed
14 deeds. You have to have signed right-of-ways. You
15 have to have 60-foot right-of-ways. Why would you
16 make a resolution and then turn around and do
17 something like this, tear your resolution up?

18 MR. BRANDON: That's an issue.

19 MS. MOORE: Well, and my opinion of
20 that, years ago --

21 MS. PHILLIPS: I'm not real interested
22 in everybody's opinions. We all know what opinions
23 are. Everybody has one.

24 MS. MOORE: But years ago there were
25 not right-of-way deeds as such as they are now.

1 MS. PHILLIPS: Years ago there were not
2 right-of-way deeds?

3 MS. MOORE: But going forward, that is
4 the requirement now, but this was over 50 years ago.

5 MS. PHILLIPS: I bought the property in
6 '98.

7 MS. MOORE: I'm talking about 50 years
8 ago.

9 MS. PHILLIPS: That's not my problem.
10 That was your problem and Mr. Hall's, who somehow
11 has this recollection of every little problem that
12 happens in Dade County. Fortunately for you, the
13 recall he had on the dam project for your family,
14 that didn't flow. He also remembered that someone
15 in that family was responsible for that dam, but you
16 chose to ignore that, didn't you?

17 MS. MOORE: No.

18 MS. PHILLIPS: What about Bailey Road
19 in West Brow? You yourself had a road paved up
20 there and Bill Morton didn't sign a right-of-way, so
21 you changed --

22 MS. MOORE: No, ma'am. I didn't do
23 that.

24 MR. BRANDON: At this point, we're not
25 going to resolve this tonight, but I would ask that

1 the county clerk put it in the work session at the
2 next meeting that we vote to abandon Craig Road at
3 the beginning of Ms. Phillips' property.

4 MS. PHILLIPS: What about the other
5 people?

6 MR. BRANDON: That would have to make
7 an appeal of their own.

8 MS. PHILLIPS: Why? They're appealing
9 something that doesn't exist. I don't know where
10 you people come from --

11 MR. BRANDON: I understand.

12 MS. PHILLIPS: -- and who makes these
13 rules that I have copies of. You have two copies in
14 your pocket, Mr. Martin. I don't know if you looked
15 at them. But would y'all read it, the resolution?
16 Do you have a copy?

17 MR. BRANDON: I don't have one with me.
18 We're not going to resolve this tonight, Ms.
19 Phillips, but I will add that --

20 MS. PHILLIPS: After a year -- how long
21 has this been going?

22 MR. BRANDON: I know. We will add that
23 to the work session at the next agenda.

24 MR. LOWERY: I would like to point out
25 something, too, Ben, it's my understanding that that

1 road did have a green sign and it's been took down
2 and had a blue sign put up.

3 MS. PHILLIPS: You need to take the
4 blue sign down.

5 MR. LOWERY: I don't know who ordered
6 that, but I think that needs to go back to a green
7 sign until this is established because it is a
8 County road.

9 MS. PHILLIPS: No, it isn't.

10 MR. BRANDON: Well, it's a moot point
11 because we're not maintaining --

12 MR. LOWERY: It's not a moot point.

13 MR. MARTIN: The reason why I haven't
14 been here, my wife has been in serious shape for the
15 last six months and I haven't been coming to the
16 meetings like I should and I haven't heard anything
17 like it.

18 MS. PHILLIPS: It's right at the end of
19 the road. You go by it every day.

20 MR. BRANDON: Anyway, we're not going
21 to work this out tonight. Really this is --
22 Ms. Phillips has fought this for a year and a half
23 and because she couldn't get anybody on the
24 Commission to address her and tell her yes or no,
25 that's basically where we are today. We either need

1 to fish or cut bait on this issue. Now, if we want
2 to take a vote that says, okay, we're going to
3 accept a County road that's only about 12-feet wide,
4 then how are you going to tell everybody else that
5 you can't do it going forward? I mean, you've got
6 to have rules. If you're going to have rules, you
7 need to obey the rules.

8 MS. REYNOLDS: Was that road not
9 maintained as a County road before those rules were
10 put into place and, therefore, is it not
11 grandfathered in as is as maintained for the last 40
12 years?

13 MR. BRANDON: We don't have any
14 documentation whatsoever on that.

15 MS. REYNOLDS: That the County hasn't
16 maintained it for the last 40 years?

17 MR. BRANDON: We have no evidence of
18 that.

19 MS. MOORE: We have witnesses.

20 MS. REYNOLDS: Well, I'm a witness
21 because I work right on the corner and I've watched
22 the County maintain that road and I'll sign the
23 paper to that.

24 MS. PHILLIPS: This resolution was made
25 in '95. This resolution was -- was that Phillip

1 Bell? This resolution was made in '95, correct? My
2 property was bought after '95. On my property on
3 every piece of paperwork -- and apparently, I have
4 more than you do, Sarah. What do you have?

5 MS. MOORE: I don't have anything right
6 with me.

7 MS. PHILLIPS: I didn't think so.

8 MS. MOORE: Not tonight. I have it
9 though in a file.

10 MS. PHILLIPS: Do we have time to go
11 through all of mine?

12 MR. BRANDON: No, we don't.

13 MS. PHILLIPS: I have the deeds and I
14 have titles and in my research, Georgia is one of
15 three states where you have to have that signed deed
16 color title; is that correct?

17 MR. ROGERS: No. In Georgia, a County
18 can obtain rights to the road with prescriptive
19 rights.

20 MS. PHILLIPS: You tried that once, but
21 you have a prescriptive easement on my property or
22 prescriptive easement on that road. How can you do
23 that when I've got -- I don't know how many
24 signatures he has, but my father-in-law and my
25 brother-in-law, my neighbor, there are more than --

1 I don't know how many signatures he has, but he
2 doesn't have half of the people on the road. You
3 know you don't have half the people on the road.

4 MS. MOORE: We have 11.

5 MS. PHILLIPS: Well, who are those 11?
6 Can I be told who those 11 are? We don't have 11
7 people on our road that own property.

8 MR. MARTIN: Your father-in-law didn't
9 live down there at that time.

10 MS. PHILLIPS: Well, my father-in-law
11 is an old man. I imagine he remembers some of the
12 things you do.

13 MR. PITTMAN: Ms. Phillips, can I ask
14 you a question? I mean, why are you wanting the
15 road abandoned? I've got people calling me every
16 day wanting --

17 MS. PHILLIPS: The problem is in order
18 for me -- you have the County road going all the way
19 down on my property, not just where my fence is, but
20 on the other side of my fence. And at the last
21 meeting when we tried to resolve this, they wanted
22 me to sign that property over. I have it on DVD and
23 you asked me to sign that over. Do you recall that,
24 Ben?

25 MR. BRANDON: Uh-huh.

1 MS. PHILLIPS: And I said no. So
2 obviously, you did not have my permission or have my
3 right-of-way or you wouldn't have asked me to sign
4 that over. I refused to sign it. No one ever did
5 anything else about it. I've E-mailed Robin. I've
6 E-mailed everybody and not only did you not do
7 anything about it, you didn't even respond. So I
8 don't know what the issue is now and as far as these
9 people here -- oh, the Wilsons? That's Wilson Road,
10 Mr. Martin. What happened to that road sign?

11 MR. MARTIN: Wilson?

12 MS. PHILLIPS: Yeah. You know, Wilson
13 Road where the Wilsons that signed this live and the
14 sign is gone?

15 MR. MARTIN: The Wilson's cuts off
16 right there at the corner of my property.

17 MS. PHILLIPS: But that's Wilson Road.
18 Well, why are the Wilsons signing something that
19 pertains to Craig Road?

20 MR. BRANDON: I don't know. Ms.
21 Phillips, I think we get a sense of -- order,
22 please. We get a sense of the issue here and I
23 would ask that -- make sure that we have this on the
24 next work session where we move to abandon the road
25 at the corner of Ms. Phillips' property and any

1 other land owner along that road would need to come
2 and appeal to the Commission if they want to do
3 anything any differently with the road.

4 MS. PHILLIPS: Yeah. Because these
5 people -- half these people live on Wilson Road.
6 Maybe they took the road sign down thinking they
7 could duke me, but I'm sorry. I've been around a
8 while.

9 MR. BRANDON: Thank you very much.
10 Anyone else? Seeing no other hands and there being
11 no further business before the Commission, I declare
12 this meeting adjourned. Thank you.

13
14 END OF MEETING
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1 REPORTER'S CERTIFICATE

2 STATE OF TENNESSEE)
3)
4 COUNTY OF HAMILTON)

5 I, Erin M. Flatt, Court Reporter and
6 Notary Public, in and for Hamilton County and the
7 State of Tennessee at Large, do hereby certify that
8 I reported in machine shorthand the proceedings had
9 in the above-styled cause on the 7th day of
10 August, 2008;

11 That the said proceedings were
12 reduced to typewriting under my personal supervision;
13 and that the foregoing is a transcript of said
14 proceedings.

15 This the 31st day of August, 2008.
16
17
18
19

20 

21 Erin M. Flatt, Notary Public
22 in and for the State of
23 Tennessee at Large.
24 My commission expires
25 November 7, 2010.